

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FILED
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2005 MAY 26 P 1:38

RENEE MESSANA, PAUL DEMEO, PAUL
MESSANA, INDIVIDUALLY AND AS NEXT
FRIEND OF RAYMOND MESSANA AND ARIANA
MESSANA

Plaintiffs,

v.

ACRES OF WILDLIFE CAMPGROUND, INC.

Defendant

Docket No. 04-11913 MLW

JOINT MOTION TO AMEND SCHEDULING ORDER

The parties, by and through their undersigned counsel, hereby move this Court for an Order amending the scheduling order(s) previously agreed upon by the parties and entered by this Court. In support of its motion, the parties state as follows.

1. The parties initially submitted a Proposed Discovery Plan pursuant to Fed. R. Civ. P. 26(f) in December of 2004. A copy of the Proposed Discovery Plan is attached hereto as Exhibit A.
2. Pursuant to that Plan, the proposed discovery deadline was set for November 15, 2005.
3. The Court held a scheduling conference on January 19, 2005, attended by Attorney Daniel Rapaport for Defendant Acres of Wildlife Campground, Inc. and Attorney John Collier on behalf of Plaintiffs.
4. At that conference, the Court adopted the agreed upon Proposed Discovery Plan, except the Court ordered that written discovery requests shall be propounded by February 15,

2005 and adding that all summary judgment motions shall be filed with the Court no later than December 15, 2005.

5. Subsequently, the Clerk informed Defendant's counsel by telephone that the Court would not be issuing a written Order with regard to scheduling agreed upon at the January 19, 2005 conference.

6. On May 5, Magistrate Judge Sorokin held a status conference. The conference was attended by Attorney Collier for Plaintiffs and Attorney Timothy Perry on behalf of Defendant.

7. Following the conference, the Court issued a written Order, amending the written Scheduling Order providing that the discovery deadline "is extended" to September 15, 2005. The Court also Ordered Plaintiffs to disclose expert reports by August 15, 2005 and that a further status conference is to be set for September 13, 2005. A copy of the Order Amending the Scheduling Order is attached hereto as Exhibit B.

8. The Amended Scheduling Order unfortunately results in having a discovery deadline before the deadline for the depositions of Defendant's experts, which is currently scheduled under the initial discovery plan for October 15, 2005.

9. Further, by extending the deadline for Plaintiffs' expert disclosures until August 15, 2005, Plaintiffs' disclosures are due before the deadline for depositions of Plaintiffs' experts, currently scheduled for July 1, 2005 under the initial agreed upon Scheduling Order. Plaintiffs expert disclosures which are currently due September 1, 2005 are also due after Defendants expert disclosures.

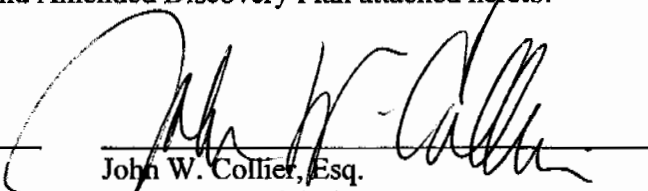
10. Counsel believe the scheduling errors were the result of a miscommunication and/or an inadvertent mistake of counsel.

11. Counsel have since corresponded to clarify the errors and have agreed to the following Second Amended Proposed Discovery Plan, attached hereto as Exhibit C.

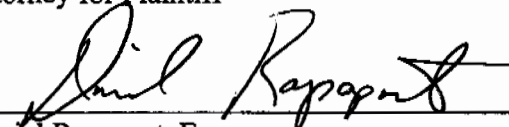
12. Both parties join in the instant motion.

WHEREFORE, the parties respectfully request that this Court issue a Second Amended Scheduling Order, incorporating the Second Amended Discovery Plan attached hereto.

Dated: 5/19/05


John W. Collier, Esq.
Attorney for Plaintiff

Dated: 5/23/05


Daniel Rapaport, Esq.
Attorney for Defendant
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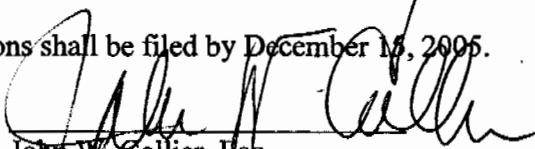
Defendant

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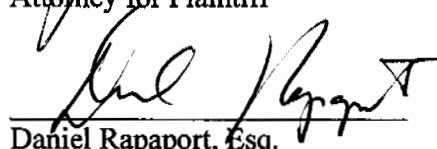
SECOND AMENDED DISCOVERY PLAN

1. Any depositions of the parties shall be completed by July 31, 2005.
2. Plaintiffs shall name their expert witness(es) and provide Rule 26(b)(4) information by August 15, 2005.
3. Plaintiffs shall make their expert witness(es) available for deposition by September 15, 2005.
4. The Defendants shall name their expert witness(es) and provide Rule 26(b)(4) information by October 15, 2005.
5. The Defendants shall make their expert witness(es) available for deposition by November 1, 2005.
6. All discovery shall be completed by November 15, 2005.
7. A further status conference shall be set for November 14, 2005 at 3:15 p.m.
8. All summary judgment motions shall be filed by December 15, 2005.

DATED: 5/19/05


John W. Collier, Esq.
Attorney for Plaintiff

DATED: 5/23/05


Daniel Rapaport, Esq.
Attorney for Defendant